

*National ambient air quality standard (NAAQS)* means a standard set by the EPA at 40 CFR part 50 under section 109 of the Act.

*Nonattainment area* means any area of the country designated by the EPA at 40 CFR part 81 in accordance with section 107(d) of the Act as nonattainment for one or more criteria pollutants. An area could be a nonattainment area for some pollutants and an attainment area for other pollutants.

*Nondiscriminatory* means that a program in one State does not result in discriminatory effects on other States or sources outside the State with regard to interstate commerce.

*Program baseline* means the level of emissions, or emission-related parameter(s), for each affected source or group of affected sources, from which program results (e.g., quantifiable emissions reductions) shall be determined.

*Program uncertainty factor* means a factor applied to discount the amount of emissions reductions credited in an implementation plan demonstration to account for any strategy-specific uncertainties in an EIP.

*Reasonable further progress (RFP) plan* means any incremental emissions reductions required by the CAA (e.g., section 182(b)) and approved by the EPA as meeting these requirements.

*Replicable* refers to methods which are sufficiently unambiguous such that the same or equivalent results would be obtained by the application of the methods by different users.

*RFP baseline* means the total of actual volatile organic compounds or nitrogen oxides emissions from all anthropogenic sources in an O<sub>3</sub> nonattainment area during the calendar year 1990 (net of growth and adjusted pursuant to section 182(b)(1)(B) of the Act), expressed as typical O<sub>3</sub> season, weekday emissions.

*Rule compliance factor* means a factor applied to discount the amount of emissions reductions credited in an implementation plan demonstration to account for less-than-complete compliance by the affected sources in an EIP.

*Shortfall* means the difference between the amount of emissions reductions credited in an implementation plan for a particular EIP and those

that are actually achieved by that EIP, as determined through an approved reconciliation process.

*State* means State, local government, or Indian-governing body.

*State implementation plan (SIP)* means a plan developed by an authorized governing body, including States, local governments, and Indian-governing bodies, in a nonattainment area, as required under titles I & II of the Clean Air Act, and approved by the EPA as meeting these same requirements.

*Stationary source* means any building, structure, facility or installation, other than an area or mobile source, which emits or may emit any criteria air pollutant or precursor subject to regulation under the Act.

*Statutory economic incentive program* means any EIP submitted to the EPA as an implementation plan revision to comply with sections 182(g)(3), 182(g)(5), 187(d)(3), or 187(g) of the Act.

*Surplus* means, at a minimum, emissions reductions in excess of an established program baseline which are not required by SIP requirements or State regulations, relied upon in any applicable attainment plan or demonstration, or credited in any RFP or milestone demonstration, so as to prevent the double-counting of emissions reductions.

*Transportation control measure (TCM)* is any measure of the types listed in section 108(F) of the Act, or any measure in an applicable implementation plan directed toward reducing emissions of air pollutants from transportation sources by a reduction in vehicle use or changes in traffic conditions.

#### § 51.492 State program election and submittal.

(a) *Extreme O<sub>3</sub> nonattainment areas.* (1) A State or authorized governing body for any extreme O<sub>3</sub> nonattainment area shall submit a plan revision to implement an EIP, in accordance with the requirements of this part, pursuant to section 182(g)(5) of the Act, if:

(i) A required milestone compliance demonstration is not submitted within the required period.

(ii) The Administrator determines that the area has not met any applicable milestone.

(2) The plan revision in paragraph (a)(1) of this section shall be submitted within 9 months after such failure or determination, and shall be sufficient, in combination with other elements of the SIP, to achieve the next milestone.

(b) *Serious CO nonattainment areas.* (1) A State or authorized governing body for any serious CO nonattainment area shall submit a plan revision to implement an EIP, in accordance with the requirements of this part, if:

(i) A milestone demonstration is not submitted within the required period, pursuant to section 187(d) of the Act.

(ii) The Administrator notifies the State, pursuant to section 187(d) of the Act, that a milestone has not been met.

(iii) The Administrator determines, pursuant to section 186(b)(2) of the Act that the NAAQS for CO has not been attained by the applicable date for that area. Such revision shall be submitted within 9 months after such failure or determination.

(2) Submittals made pursuant to paragraphs (b)(1) (i) and (ii) of this section shall be sufficient, together with a transportation control program, to achieve the specific annual reductions in CO emissions set forth in the implementation plan by the attainment date. Submittals made pursuant to paragraph (b)(1)(iii) of this section shall be adequate, in combination with other elements of the revised plan, to reduce the total tonnage of emissions of CO in the area by at least 5 percent per year in each year after approval of the plan revision and before attainment of the NAAQS for CO.

(c) *Serious and severe O<sub>3</sub> nonattainment areas.* If a State, for any serious or severe O<sub>3</sub> nonattainment area, elects to implement an EIP in the circumstances set out in section 182(g)(3) of the Act, the State shall submit a plan revision to implement the program in accordance with the requirements of this part. If the option to implement an EIP is elected, a plan revision shall be submitted within 12 months after the date required for election, and shall be sufficient, in combination with other elements of the SIP, to achieve the next milestone.

(d) *Any nonattainment or attainment area.* Any State may at any time sub-

mit a plan or plan revision to implement a discretionary EIP, in accordance with the requirements of this part, pursuant to sections 110(a)(2)(A) and 172(c)(6) and other applicable provisions of the Act concerning SIP submittals. The plan revision shall not interfere with any applicable requirement concerning attainment and RFP, or any other applicable requirements of the Act.

#### § 51.493 State program requirements.

Economic incentive programs shall be State and federally enforceable, nondiscriminatory, and consistent with the timely attainment of NAAQS, all applicable RFP and visibility requirements, applicable PSD increments, and all other applicable requirements of the Act. Programs in nonattainment areas for which credit is taken in attainment and RFP demonstrations shall be designed to ensure that the effects of the program are quantifiable and permanent over the entire duration of the program, and that the credit taken is limited to that which is surplus. Statutory programs shall be designed to result in quantifiable, significant reductions in actual emissions. The EIP's shall include the following elements, as applicable:

(a) *Statement of goals and rationale.* This element shall include a clear statement as to the environmental problem being addressed, the intended environmental and economic goals of the program, and the rationale relating the incentive-based strategy to the program goals.

(1) The statement of goals must include the goal that the program will benefit both the environment and the regulated entities. The program shall be designed so as to meaningfully meet this goal either directly, through increased or more rapid emissions reductions beyond those that would be achieved through a traditional regulatory program, or, alternatively, through other approaches that will result in real environmental benefits. Such alternative approaches include, but are not limited to, improved administrative mechanisms, reduced administrative burdens on regulatory agencies, improved emissions inventories, and the adoption of emission